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EXAMINER

PHAM, ROBERT T

ART UNIT

PAPER NUMBER

2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

XD

# Office Action Summary

Application No.

09/304,906

Applicant(s)

SIPPLE ET AL.

Examiner

Robert T Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 11-13, 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang U.S. Patent 6,212,657.

Regarding claims 1, 11, 16, Wang discloses an apparatus and method for delivering digital data on demand using a plurality of storage modules (SMs) to store video data in MPEG-2 format; a plurality of transaction servers (or central control modules – CCMs) to spool video data in response to subscribers requests and to handle media command and control, such as pause, rewind, fast-forward; and a plurality of streaming servers (or delivery modules – DMs) to stream video data for

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delivery. This is shown in Figure 1 and described in column 5, lines 49-59, column 6, lines 19-35, lines 43-65, and column 7, lines 4-28.

Returning to claims 1, 11, 16:

Generating a request for video on demand from a subscriber's computer is shown in Figure 1A (101), and described in column 5, lines 66-67, and column 6, lines 1-11;

Storing requested video program in memory is shown in Figure 1A (126); and

Streaming the requested video program;

is shown in Figure 1A (125), and described in column 7, lines 20-28.

Regarding claim 12, Wang discloses an apparatus and method, wherein the requesting means comprises a subscriber box is shown in Figure 1A (101), and described in column 5, lines 66-67, and column 6, lines 1-11.

Regarding claim 13, Wang discloses an apparatus and method, wherein the streaming means comprises an industry standard personal computer is described in column 6, lines 66-67.

Regarding claims 17-19, Wang discloses an apparatus and method, wherein pausing, reversing and fast forwarding the streaming in response to signal from the subscriber is described in column 8, lines 21-30.

***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Englin U.S. Patent 5,860,093.

Regarding claims 2, 14, Wang discloses an apparatus and method, as claimed, wherein the DMs (120) are a collection of streaming servers, each with a memory 126. Memory 126 is shared by multiple video processors (121), as shown in Figure 1A, and described in column 7, lines 20-23.

Wang does not disclose the memory is a Unisys CMP memory platform.

Englin discloses a Unisys CMP memory platform, as shown in Figure 5, and described in column 7, lines 55-64. Englin discloses that Unisys CMP memory platform provides each processor under a multiprocessor environment with a virtually dedicated connection to the shared memory controller, and thus, a very fast access to the memory (without waiting, as in the case of bus arrangement shared connection), while keeping the number of I/O pins of the memory controller from exploding to an unreasonably large number, as described in column 1, lines 47-64. This is realized by providing the memory controller with a tag memory and a cache memory, wherein the tag memory is used to determine if the requested data is in the cache memory, and if so, to read out the requested data, as described in column 2, lines 8-28.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang to include a Unisys CMP memory platform, as disclosed by Englin, to increase the performance of the streaming server by reducing the memory access time of the video processors to the minimum.

Regarding claim 15, Wang discloses an apparatus and method, as claimed, wherein the transaction subsystem is the Central Control Module (CCM) comprising a processor and a memory, as shown in Figure 1A (112, 114) for spooling requested video programs as described in column 8, lines 21-30, lines 50-65, and column 9, lines 37-60.

5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Englin, and further in view of Chen U.S. Patent 6,412,004.

Regarding claim 3, Wang discloses an apparatus and method, as claimed.

Wang does not disclose the processor comprises an industry compatible, Windows NT based processor.

Chen discloses an apparatus and method for distributing video on demand, wherein the stream server is running Windows NT, as described in column 4, lines 27-33.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang to include Windows NT-based streaming servers, as disclosed by Chen, to enable the streaming servers to be networked together to balance traffic load and to increase service availability.

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Regarding claims 4-5, Wang discloses an apparatus and method, as claimed, wherein:

The transaction server is the Central Control Module (CCM) connected to subscriber receiver and streaming server, as shown in Figure 1A (110), and described in column 8, lines 50-65; and

The video data is encoded in MPEG-2 format as described in column 7, lines 23-28.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Alonso U.S. Patent 6,184,878.

Wang discloses an apparatus and method, as claimed.

Wang does not disclose a cable TV receiver capable of providing a service request.

Alonso discloses a set-top terminal capable of providing a service request as shown in Figure 1 (42), and described in column 3, lines 10-25.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang to include a set-top terminal, as disclosed by Alonso, to enable video on demand to be offered over cable TV distribution system.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Alonso, and further in view of Chen.

Wang, in view of Alonso, discloses an apparatus and method, as claimed.

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Wang, in view of Alonso, does not disclose the processor comprises an industry compatible, Windows NT based processor.

Chen discloses an apparatus and method for distributing video on demand, wherein the stream server is running Windows NT, as described in column 4, lines 27-33.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang to include Windows NT-based streaming servers, as disclosed by Chen, to enable networking of multiple streaming servers to balance traffic load and to increase service availability.

8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Alonso, Chen, and further in view of Englin.

Regarding claim 8, Wang discloses an apparatus and method, as claimed.

Wang does not disclose the memory is a Unisys CMP memory platform.

Englin discloses a Unisys CMP memory platform, as described in the response to claim 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang, in view of Alonso and Chen, to include a Unisys CMP memory platform, as disclosed by Englin, to increase the performance of the streaming server by reducing the memory access time of the video processors to the minimum.



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Regarding claim 9, Wang discloses an apparatus and method, as claimed, wherein spooled video program is in MPEG-2 format is described in the response to claim 5.

Regarding claim 10, Wang discloses an apparatus and method, as claimed, wherein a transaction server is described in the response to claim 4.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang, in view of Dean U.S. Patent 6,223,292.

Wang discloses an apparatus and method, as claimed.

Wang does not disclose performing subscriber accounting to enable billing.

Dean discloses an apparatus and method for collecting usage to enable billing, as described in column 6, lines 50-58.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wang, to include collecting video on demand usage, as disclosed by Dean, to enable content and network providers to generate revenue, as well as, to prevent unauthorized presentation and reproduction.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Allen U.S. Patent 5,892,535 discloses a flexible, configurable, hierarchical system for distributing programming.

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Peters U.S. Patent 6,374,336 discloses a computer system and process for transferring multiple high bandwidth streams of data between multiple storage units and multiple applications in a scalable and reliable manner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert T Pham whose telephone number is 703-305-4810. The examiner can normally be reached on M-F 7:30-5; every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9700.

Robert Pham  
August 6, 2002

  
ANDREW FAILE  
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